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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,900	09/27/2005	Ilan Samson	P08517US00/RFH	6600

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EXAMINER

MACNEILL, ELIZABETH

ART UNIT	PAPER NUMBER
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3767

MAIL DATE	DELIVERY MODE
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08/21/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/518,900

Applicant(s)

SAMSON ET AL.

Examiner

Elizabeth R. MacNeill

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 and 22-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 and 22-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some *c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submissions filed on 12 June 2007 and 20 July 2007 have been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-13 and 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams et al (US 5,749,850) in view of Schulte (US 3,769,982).

4. Williams teaches a breast pump with a breast engaging portion (57), a container (60), a valve (80), a flexible sleeve (51), actuating means/lever arm (65). The base of the sleeve has a closed base (54a) with link pin (52) and the other end is secured to a collar (71). Connector 59 acts as a handle. Williams does not specify that the diaphragm/sleeve member is made of a non-stretch material or has a concertina shape. Schulte teaches that it is known in the art to substitute a non-stretch, concertina shaped diaphragm for another type of diaphragm (Fig 23). See Col 7 at line 25 "FIG.

23 illustrates a portion of a diaphragm which is flexible, but not necessarily resilient in the "elastic" sense of the term. Except for diaphragms such as complementary diaphragm 75, which is best made elastic, the diaphragms merely need to be movable to accomplish their purpose. Even in diaphragm 75, a spring could be substituted for the elasticity as a source of restorative force. This illustrative diaphragm 135 has a fabric reinforcement 136 which will prevent stretching. However, a number of bellows-convolutions enable the seat 137 to move axially relative to the rim edge of the diaphragm. Such a construction can generally be substituted for the other diaphragms shown in the drawings." The diaphragm of Schulte is used to create a vacuum to draw fluids from the body in the same manner as the breast pump of Williams (Abstract). Because both Schulte and Williams teach known methods of withdrawing fluid from the body, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the diaphragm of Schulte to achieve the predictable result of extracting milk from the breast.

5. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Williams/Schulte in view of Britto (US 7,49,582)

Williams/Schulte teach the device as above but do not use a duckbill valve. Britto uses a duckbill valve (36). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the duckbill valve of Britto to achieve the predictable result of a selectively open valve in a breast pump.

6. Claims 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams/Schulte in view of Ytteborg (US 2003/0153869).

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Williams/Schulte do not teach the particulars of the horn claimed by the applicant.

Ytteborg teaches a breast cup (5) for use with a breast pump with a horn (2), the horn being shaped to engage a region of a user's breast, and being of a rigid material (12) and having bonded thereto at least one region of soft, elastic material (14) the soft material of the or each region infilling an associated aperture through the rigid material to comprise the thickness of the horn at said region, which the rigid material is polypropylene or polycarbonate, and the soft elastic material is a thermoplastic elastomer (P0031-P0032), in which there are two opposed regions of soft, elastic material remote from the open end of the horn, one for location above the breast and one for location below the breast adjacent the nipple for manipulation by the thumb and a finger of the user (portions 13). Alternatively, the whole of the internal area of the rigid material is lined with said soft material (portions 14). Additionally, the outer peripheral edge of the horn comprises a lip of said soft material encasing the periphery of the rigid material (not labeled, rim). Finally, the horn is constructed by a two-shot moulding with the soft, elastic material permanently bonded to the rigid material by virtue of the inherent characteristics of the materials (Fig 7).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the breast pump of Williams/Schulte with the breast cup of Ytteborg in order to provide a breast cup which is comfortable in use, soft and able to adapt to the various shapes and sizes of the breast and easy to use (P0013).

Response to Arguments

7. Applicant's arguments with respect to claims 1-20 and 22-25 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth R. MacNeill whose telephone number is (571)-272-9970. The examiner can normally be reached on 9:00-5:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ERM



KEVIN C. SIRMONS
SUPERVISORY PATENT EXAMINER

